

**UNITED STATE DISTRICT COURT
DISTRICT OF MINNESOTA**

Jeffery C. Pendleton,

Civil File No. 09-733 JNE/AJB

Petitioner,

v.

ORDER

Joan Fabian,

Respondent.

Based upon the Report and Recommendation by U.S. Magistrate Judge Arthur J. Boylan, dated December 11, 2009, with all the files and records, and no objections having been filed to said Recommendation, **IT IS HEREBY ORDERED** that Respondent's motion to dismiss is **granted** [Docket No. 12]; Pendleton's motion for miscellaneous relief is **denied** [Docket No. 16]; and the petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody [Docket No. 1] is **denied and dismissed with prejudice** .

Date: January 8, 2010

s/ Joan N. Ericksen

Joan N. Ericksen

United States District Court Judge